

J7I6CIAC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 866 (WHP)

5 ROGER THOMAS CLARK,

6 Defendant.

Conference

7 -----x  
8 New York, N.Y.  
9 July 18, 2019  
12:20 p.m.

10 Before:

11 HON. WILLIAM H. PAULEY III,

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

15 United States Attorney for the  
Southern District of New York

16 BY: MICHAEL NEFF

VLAD VAINBERG

17 Assistant United States Attorneys

18 STEPHANIE CARVLIN

JACOB MITCHELL

19 Attorneys for Defendant

20 Also Present: Courtney Hauck, Intern  
21  
22  
23  
24  
25

J7I6CIAC

(Case called)

MR. NEFF: Good afternoon, your Honor.

Michael Neff and Vlad Vainberg for the government, joined at counsel table by an intern with our office, Courtney Hauck.

THE COURT: Good afternoon.

MS. CARVLIN: Good afternoon your Honor.

Stephanie Carvlin for Roger Clark, and with me is my associate Jacob Mitchell.

THE COURT: Good afternoon to you as well.

I note the presence of the defendant, Mr. Clark, at counsel table.

I have received Ms. Carvlin's report.

Mr. Neff, from the government's perspective, what is the status of this matter?

MR. NEFF: Yes, your Honor. Two minor developments since the last time we were together in late March. The first was noted in Ms. Carvlin's letter from a few days ago, namely, she and I have been working together and with legal staff at MDC to try to ensure Mr. Clark's access to every last page. We agree with Ms. Carvlin's description in her letter as to the status and progress of those efforts.

Second, there have been no productions of discovery since we were last together in late March, but we anticipate one later this month. Specifically less than a week ago the

J7I6CIAC

1 government received MLAT returns from the U.K. consisting  
2 principally of criminal history records, immigration records  
3 and corporation records. These returns appear not to be  
4 particularly voluminous. They appear to be less than 250 or so  
5 pages and they appear to be entirely in English. We're in the  
6 process of reviewing those materials and will produce them  
7 later this month.

8 I suppose I should note or reiterate since we've said  
9 it previously, obviously our investigation is ongoing and  
10 should we come into possession of additional Rule 16 materials,  
11 we will produce them promptly.

12 THE COURT: Thank you.

13 Ms. Carvlin, with respect to the proposed motions, it  
14 might be helpful if you could add a little to them.  
15 Specifically with respect to your motion to dismiss the  
16 indictment, I am interested to know what arguments you think  
17 you would be advancing.

18 MS. CARVLIN: Judge, I am a little hesitant because  
19 those motions depend on the result of the investigation that is  
20 ongoing. It would be in terms of the way in which the  
21 government initiated the prosecution initially.

22 THE COURT: Fair enough. I think that your proposed  
23 briefing schedule for the motions is largely acceptable if you  
24 file your motions on October 31. I take it the government  
25 believes that it needs the kind of time that is requested in

J7I6CIAC

1 Ms. Carvlin's letter?

2 MR. NEFF: We do, your Honor. In part because of  
3 simply the number and anticipated breadth of the motions, in  
4 part because of the current trial schedule of the assistant  
5 U.S. attorneys on this case. Two of the three of us have  
6 multi-week trials beginning October 28th at least at present,  
7 which roughly corresponds with the anticipated filing date of  
8 the motions. So we do believe that the six weeks requested is  
9 appropriate. Again because of number and schedule, not because  
10 of any view from our perspective that any of the motions have  
11 merit.

12 THE COURT: Ms. Carvlin, I think you're being awfully  
13 hard on yourself by suggesting that you will file your reply on  
14 December 26th. I am simply going to say to you that you can go  
15 ahead and file your reply if it will help by January 8th.

16 MS. CARVLIN: I am sure my family would appreciate  
17 that over the holiday, Judge.

18 THE COURT: January 8th for reply.

19 I will obviously want to hear oral argument on these  
20 motions and I will put them down for January 24th at 11:30.

21 I do think that it would be helpful for me to have yet  
22 another conference with you, though, before that oral argument  
23 date and I am thinking of after the motions are filed on  
24 October 31 that we have a further conference on November 7 for  
25 the purpose of making certain that everything is on track

J7I6CIAC

1 relating to Mr. Clark's review of the materials and the  
2 situation at MDC and all those sorts of things. So put it down  
3 for November 7 at 11:00 a.m.

4 Once again I'd invite the government and defense to  
5 submit a status report, let's say, by November 4.

6 MS. CARVLIN: I will say, your Honor, having these  
7 deadlines has been very helpful with the government and my  
8 efforts to facilitate things with MDC.

9 THE COURT: Right. If there is a need for judicial  
10 intervention, the two of you will let me know.

11 MS. CARVLIN: Yes. Thank you.

12 THE COURT: What then is the defendant's view  
13 concerning the exclusion of time between now and November 7?

14 MS. CARVLIN: We have no objection, your Honor. We're  
15 still reviewing the discovery and will be making a motion if  
16 appropriate.

17 THE COURT: Since this continuance is due to the  
18 defendant's announced intention to file motions and the  
19 defendant's continuing review of the voluminous discovery in  
20 this case and the government's production of MLAT returns from  
21 the United Kingdom, among other things, I perspectively exclude  
22 the time from today until November 7, 2019, from Speedy Trial  
23 Act calculations. I find that this continuance serves to  
24 ensure the effective assistant of counsel and prevents any  
25 miscarriage of justice. Additionally, I find that the ends of

J7I6CIAC

1 justice served by such a continuance outweigh the best interest  
2 of Mr. Clark in a speedy trial pursuant to 18, U.S.C., Section  
3 3161.

4 Anything further?

5 MR. NEFF: No, your Honor. Thank you.

6 MS. CARVLIN: No, your Honor.

7 THE COURT: Thank you all for coming in. Have a good  
8 afternoon.

9 -0-